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March 17, 2022

**Via ECF**

Hon. Allyne Ross, U.S.D..J.  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Re: Plaintiff's Opposition to Defendants' Request for Extension  
Stidhum v. 161-10 Hillside Auto Ave., LLC, No. 19-cv-01625 (ARR) (RML)**

Your Honor,

We represent the Plaintiff in the above-referenced case. We write respectfully in opposition to Defendants' Motion for Extension of Time to Object to Judge Levy's Order denying Defendants' Motion for Attorneys' Fees pursuant to Rule 41 of the Federal Rules of Civil Procedure.

Under Rule 72 of the Federal Rules of Civil Procedure, a party must object to a report and recommendation within fourteen (14) days. *See* Fed. R. Civ. P. 72. This deadline may be extended on motion only by a showing of good cause. *See* Fed. R. Civ. P. 6(b)(1).

Defendants state two purported grounds of good cause for extension: lack of time due to being busy on other matters and the merits of their objection. Neither contention has merit. "Ordinary work responsibilities" are no reason to grant an extension of time to object to a report and recommendation. *See Neita v. Precision Pipeline Sols.*, 768 Fed. Appx. 12, 13 (2d Cir. 2019). Defendants' merits argument fails to show that Judge Levy overlooked any authorities—they refer to their having put the authorities on which they intend to rely before Judge Levy. Judge Levy considered and rejected those arguments, and recommended that the court not exercise its discretion to award costs. *See* Dkt. No. 27, at \*3–6.

Finally, Defendants, despite being aware of Your Honor's Individual Practices regarding extensions, failed to abide by them. In particular, they failed to ask whether we would consent to their proposed extension pursuant to Rule II(E)(4), preferring to substitute their imaginings of our response. They did not even attempt to contact us in any way, whether by email, telephone, in person, or otherwise. Further, while Your Honor's Individual Practices only require that requests for adjournments of appearances be made forty-eight hours in advance, filing a request for extension of time to file a document at 5:53 PM on the due date, as Defendants have done here, is gamesmanship well outside the spirit of Your Honor's rules.

This gamesmanship is wholly unlike the comparative diligence on display in *Gao v. Perfect Team Corp.*, on which Defendants rely. *See Gao v. Perfect Team Corp.*, No. 2013 U.S. Dist..LEXIS 181885, at \*3, n.1 (E.D.N.Y. Dec. 18, 2013). In *Gao*, the Magistrate Judge issued her report and recommendation on March 8, 2013, with objections due on March 22, 2013; one set of defendants requested an extension of time to object on March 12, 2013, and their time was duly

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extended to April 5, 2013—the extension was broadened to a second set of defendants after their motion on March 27, 2013. *See, id.* Nobody waited until close of business on the deadline to move for an extension. Not even the movant in *Nieta, supra*, did that—he at least moved for an extension “the day before the filing deadline.” *See Nieta*, 768 Fed. Appx. at 13.

Dated: Flushing, NY  
March 17, 2022

Respectfully submitted,

/s/ Aaron B. Schweitzer  
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/asb